

North Dakota State Supplement to
RUS BULLETIN 1794A-602

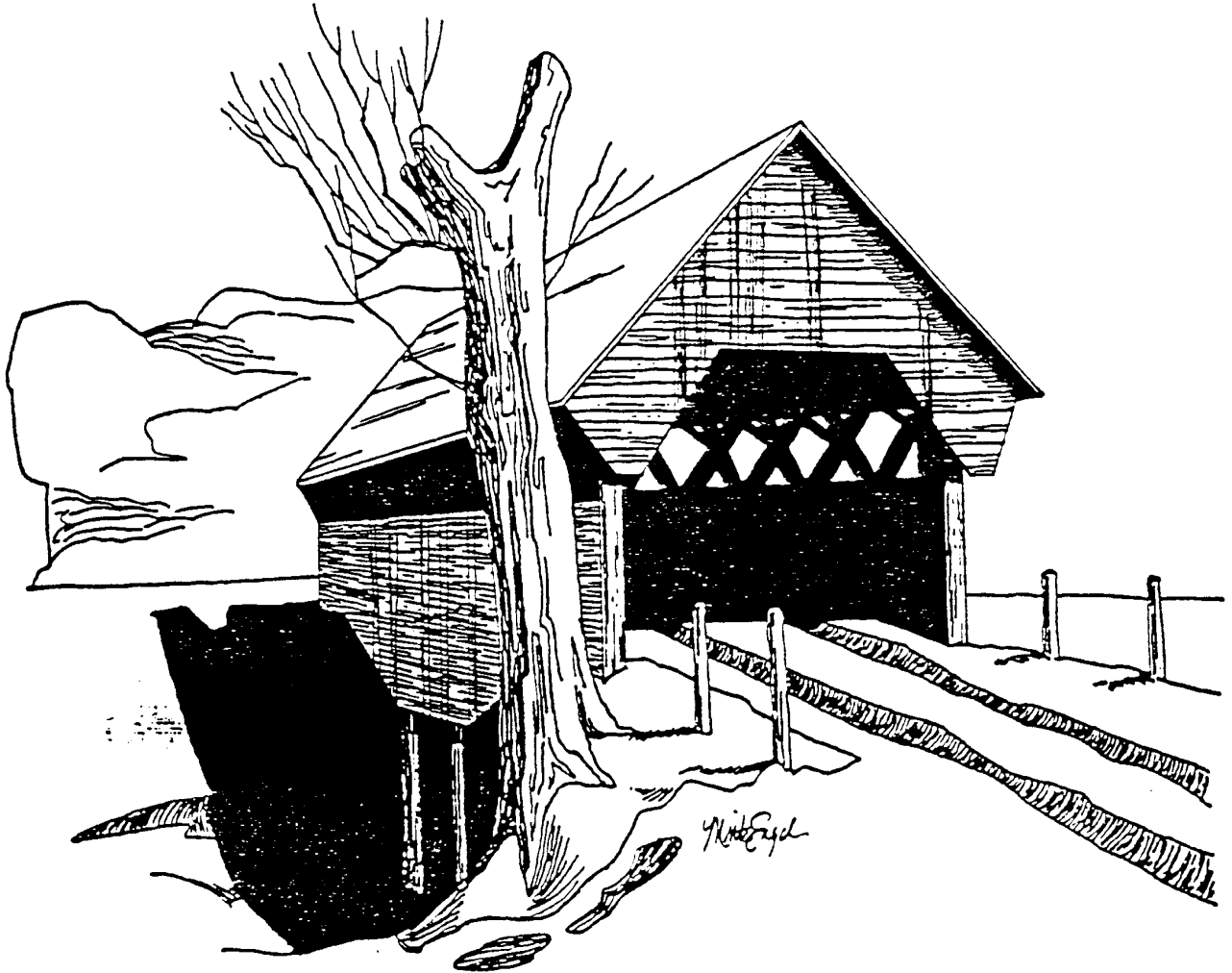
NATURAL RESOURCE MANAGEMENT GUIDE

NORTH DAKOTA RURAL DEVELOPMENT

Revised February 10, 2005

Natural Resource Management Guide

North Dakota Rural Development



“As a people we have conquered a continent and the frontier exists no more. No longer can we live off the land and move on. We must preserve and manage, for unlike our fathers we can no longer move on to unspoiled areas.”

JAMES LOCKHART
Artist & Conservationist

TABLE OF CONTENTS
Headings and Page Numbers

| | |
|---|----|
| Purpose..... | 4 |
| Policy, Content and Purpose of the Guide..... | 4 |
| Requirements..... | 4 |
| Intergovernmental Review..... | 6 |
| Federal Mandates..... | 6 |
| Land Use..... | 7 |
| Important Farmland, Prime Rangeland and Forest Land..... | 7 |
| Landmarks, Wild and Scenic Rivers, and Wilderness Areas..... | 8 |
| Floodplains..... | 8 |
| Wetlands..... | 10 |
| Historical/Cultural and Archaeological Sites..... | 10 |
| Biological Resources; Critical Habitat; Endangered and Threatened Species Act..... | 13 |
| Water Quality..... | 13 |
| Sole Source Aquifer Recharge Area..... | 14 |
| Coastal Resources; Coastal Barrier Resources System & Coastal Zone Management Area..... | 14 |
| Environmental Justice..... | 14 |
| Air Quality..... | 14 |
| Noise..... | 15 |
| Hazardous Waste..... | 15 |
| Radon Gas..... | 16 |
| Underground Tanks..... | 17 |
| Cumulative Impact Considerations..... | 17 |
| Appendices..... | 18 |

Pen and Ink Cover Drawing
By Monte Engle, NDSHD
With Thanks

February 10, 2005

NATURAL RESOURCE MANAGEMENT GUIDE
North Dakota Rural Development
Rural Utilities Program

I PURPOSE

A The Natural Resource Management Guide will enumerate the standards and review requirements that apply to land uses and environmental resources within the State of North Dakota. It is intended to supplement RUS Bulletin 1794A-602, Guide for Preparing the Environmental Report for Water and Waste Projects. The guide will outline USDA, Rural Development Rural Utilities Program policies and areas of concern with the environmental impact created by Rural Development actions.

II POLICY, CONTENT AND PURPOSE OF THE GUIDE

A Actions covered by this Guide include all financial assistance, subdivision approvals and other major actions such as proposals for legislation and the disposal of inventory property.

B Rural Development will consider environmental quality as equal with economic, social and other relevant factors in program development and decision-making processes.

C The Guide provides Rural Development offices with a concise listing of the environmental and land use considerations and constraints that must be addressed in the review and approval of applications for funding assistance. It will serve as a planning tool for prospective applicants.

D The Natural Resource Management Guide shall become part of any program investment strategies developed by the State Director for the purpose of addressing rural needs of the State of North Dakota.

E The Natural Resource Management Guide will be an internal Rural Development planning tool with sensitivity to Rural Development's mission.

III REQUIREMENTS

A In assessing the potential environmental impacts of its actions, Rural Development will **consult early** with appropriate federal, state and local agencies and other organizations to provide decision makers with both the technical and human aspects of environmental planning.

III REQUIREMENTS (Continued)

B When adverse environmental impacts are identified, either direct or indirect, an examination shall be made of **alternative courses of action** including their potential environmental impacts. The objective of the environmental review shall be to develop a feasible alternative with the least adverse environmental impact. The alternative of not proceeding with the proposal will also be considered, particularly with respect to the need for the proposal.

C If no feasible alternative exists, including the no-action alternative, measures to mitigate the identified adverse environmental impacts will be included in the proposal.

D The performance of environmental reviews and the consideration of alternatives will be initiated as early as possible in the Rural Development decision making process so that Rural Development will be in the most flexible and objective position to deal with these considerations.

E The Compact Community Development Policy of Rural Development will be to not approve proposals that extend beyond a community's existing settlement pattern, unless the following conditions are met:

1 The project is planned and sited in a manner consistent with the policies of the Farmland Protection Policy Act and United States Department of Agriculture Departmental Regulation 9500-3, Land Use Policy.

2 The project is not inconsistent with an existing comprehensive plan that guides growth and reflects a realistic strategy for protecting natural resources and the project is compatible, to the extent practicable, with State, units of local government, and private programs and policies to protect farmland.

3 The project will encourage long-term economically viable public investment by fostering or promoting development patterns that ensure **compact community development**.

F Utility projects are designed to serve rural residents, such as rural water and waste disposal systems, and therefore cannot be limited to service areas contiguous with existing settlement patterns. These types of projects will be designed to primarily serve existing structures and rural residents in noncontiguous areas. Any additional capacity within the system will be limited to meet reasonable growth needs and, to the extent practicable, be designed to meet such needs within existing settlements and areas contiguous to them.

G Not only will the impact of individual projects be considered. The cumulative effect individual projects may produce will also be considered. These projects would include housing, water and sewer projects and also past Rural Development investments in programs of this type.

IV INTERGOVERNMENTAL REVIEW

A The process for state and local input into Rural Development programs is Executive Order 12372, Intergovernmental Review. All prospective applicants are required to complete the appropriate State consultation process prior to submitting an application to Rural Development.

B Applicants should submit their proposals to:

| | |
|----------------------|--|
| State Clearinghouse: | Department of Commerce Division of Community Services Century Center, Suite 2 1600 East Century Avenue PO Box 2057 Bismarck, ND 58502-2057 Telephone: (701) 328-5300 |
|----------------------|--|

| | |
|--|---|
| Metropolitan Clearinghouse: (Jurisdiction-Cass County) Fargo, Moorhead, Dilworth West Fargo | Fargo-Moorhead Metropolitan Council of Governments 1 North 2 nd Street, Suite #232 Fargo, ND 58102 Telephone: (701) 232-3242 |
|--|---|

V FEDERAL MANDATES

A An inventory or listing shall be developed of the important land uses within the State. This inventory will be accomplished by assembling existing data and information compiled by those Federal, State and local agencies. At a minimum, the inventory shall consist of available documents, listings, maps, or graphic materials describing the location of the following:

- 1 Executive Order 11990, Protection of Wetlands
- 2 Executive Order 11988, Floodplain Management
- 3 Wilderness Act
- 4 Wild and Scenic Rivers Act
- 5 Historical and Archaeological Sites
- 6 Endangered Species Act
- 7 Coastal Barrier Resources Act
- 8 Natural Landmark
- 9 Important Farmland
- 10 Prime Forest Land
- 11 Prime Rangeland
- 12 Coastal Zone Management Act
- 13 Sole Source Aquifer Recharge Area
- 14 Air Quality
- 15 Water Quality
- 16 Hazardous Waste
- 17 Radon Gas

North Dakota RUS Bulletin 1794A-602

V FEDERAL MANDATES (continued)

- 18 Underground Tanks
- 19 Sod Busting/Swamp Busting
- 20 Executive Order, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- 21 Resource Conservation and Recovery Act of 1976 (RCRA)
- 22 Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)
- 23 Superfund Amendments and Reauthorization Act of 1986 (SARA)

VI LAND USE

A The State of North Dakota has not adopted a statewide land use policy; however, local jurisdictions with limited authority may have adopted policies.

VII IMPORTANT FARMLAND, PRIME RANGELAND AND FOREST LAND

A Level of Protection

1 The Farmland Protection Policy Act and Land Use Policy of the Department of Agriculture will be implemented on all actions to determine if the action would result in the conversion of an important land resource.

2 Rural Development's policy is not to approve or fund any proposals that, as a result of their identifiable impacts, direct or indirect, would lead to or accommodate either the conversion of these land uses or encroachment upon them. The only exception to this policy is if the approving official determines that there is no practicable alternative to the proposed actions, the proposal conforms to the planning criteria, and the proposal includes all practicable measures for reducing the conversion or encroachment in accordance with the Farmland Protection Policy Act and United States Department of Agriculture Departmental Regulation 9500-3, Land Use Policy.

3 The Natural Resources Conservation Service (NRCS) in North Dakota has prepared an inventory of the prime farmland soils in the state. This inventory will be the basic data used to determine if a tract of land is prime farmland. The land could be cropland, pastureland, rangeland, forestland or other land, but not urban, built-up land. Published soil surveys prepared by NRCS will be used, and any changes in land classification must be obtained in writing from the Natural Resources Conservation Service.

B Agency jurisdiction and location of resource:

Natural Resources Conservation Service
PO Box 1458
Bismarck, ND 58502
Telephone: (701) 530-2006

North Dakota RUS Bulletin 1794A-602

VIII LANDMARKS, WILD AND SCENIC RIVERS, AND WILDERNESS AREAS

A Level of Protection

Projects shall be examined for conformance to the Wild and Scenic Rivers Act. A determination of whether the proposal would invade the river area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area is required. Consultation shall be initiated when the proposal: (1) would be located within one-quarter mile of the banks of the river, (2) involves withdrawing water from the river or discharging water to the river via a point source, or (3) would be visible from the river. Projects that will have an unavoidable adverse effect shall be denied. Maps and inventories of wild and scenic rivers are available for review in Rural Development State, Area, and Local Offices. See Appendices A and B.

B Agency jurisdiction and location of resource:

National Park Service
700 Ray-O-Vac Drive #100
Madison, WI 53711
Telephone: (608) 441-5610

IX FLOODPLAINS

A Level of Protection

1 Executive Order 11988, Floodplain Management, will be the general guideline in determinations regarding the effect of Rural Development actions when floodplains are involved.

2 Rural Development's policy is not to approve or fund any proposal that, as a result of their identifiable impacts, direct or indirect, would lead to or accommodate either the conversion of floodplains or encroachment upon them. The only exception to this policy is if the approving official determines that (1) there is no practicable alternative to the proposed action, (2) the proposal includes all practicable measures for reducing the conversion/encroachments, and (3) the proposal conforms to the planning criteria identified in RUS Instruction 1794, Environmental Policies and Procedures.

3 Floodplain guidelines will be the most current Flood Insurance Rate Map or Flood Insurance Study issued for the project area by the Federal Emergency Management Agency (FEMA).

4 Flood Hazard Boundary and Flood Insurance Maps supplied by FEMA are available for review in Rural Development State, Area, and Local Offices. If a FEMA floodplain map has not been prepared for the project area, additional assistance may be available from the following agencies:

IX FLOODPLAINS (Continued)

Natural Resources Conservation Service
PO Box 1458
Bismarck, ND 58502
Telephone: (701) 530-2006

U.S. Geological Survey
821 East Interstate
Bismarck, ND 58501
Telephone: (701) 250-7400

Dakota Prairie Grasslands
240 West Century Avenue
Bismarck, ND 58503
Telephone: (701) 250-4443

Army Corps of Engineers
North Dakota Regulatory Field Office
1513 South 12th Street
Bismarck, ND 58504
Telephone: (701) 255-0015

ND State Water Commission
900 East Boulevard
Bismarck, ND 58505
Telephone: (701) 328-2750

B Agency jurisdiction and location of resource:

Federal Emergency Management Agency
Map Service Center
PO Box 1038
Jessup, MD 20794-1038
Toll Free Number: (800) 358-9616

Federal Emergency Management Agency
Denver Federal Center
Building 710, Box 25267
Denver, CO 80225-0267
Telephone: (303) 235-4800

X WETLANDS

A Level of Protection

1 Executive Order 11990, Protection of Wetlands, will be the general guideline to follow in determinations regarding the effect of Rural Development actions when wetlands are involved. Rural Development's policy is not to approve or fund any proposals that, as a result of their identifiable impacts, direct or indirect, would lead to or accommodate either the conversion of wetland or encroachment upon them. The only exception to this policy is if the approving official determines that (1) there is no practicable alternative to the proposed action, and (2) the proposal includes all practicable measures for reducing the conversion/encroachment.

2 Wetlands mean those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions (hydrophilic). Wetlands generally include swamps, marshes, bogs, potholes and similar areas.

B Agency jurisdiction and location of resource:

Wetland Coordinator
U.S. Fish & Wildlife Service
PO Box 25486
Denver Federal Center
Denver, CO 80225
Telephone: (303) 234-4616

Wetlands Coordinator
U.S. Fish & Wildlife Service
3425 Miriam Avenue
Bismarck, ND 58501
Telephone: (701) 250-4418

XI HISTORICAL, CULTURAL AND ARCHAEOLOGICAL SITES

A Level of Protection

Projects shall be examined for conformance to the National Historic Preservation Act, the Archaeological and Historic Preservation Act, the Native American Graves Protection and Repatriation Act, and North Dakota Century Code Section 23-06-27, Protection of Human Burial Sites, Human Remains and Burial Goods. The National Registers will be examined for the project's potential to affect historic sites. Consultation with the State Historic Preservation Officer (SHPO) and the Tribal Historic Preservation Officer (THPO) will be initiated in accordance with RUS Bulletin 1794A-602.

XI HISTORICAL, CULTURAL AND ARCHAEOLOGICAL SITES (Continued)

B Agency jurisdiction and location of resource: See Appendix D for list (not all inclusive) of Tribal Historic Preservation Officers.

National Park Service
Midwest Region
1709 Jackson Street
Omaha, NE 68102
Telephone: (402) 221-3471

National Forest Service
Northern Region One
Federal Building
200 East Broadway
PO Box 7669
Missoula, MT 59807
Telephone: (406) 329-3511

Dakota Prairie Grasslands
240 West Century Avenue
Bismarck, ND 58503
Telephone: (701) 250-4443

Advisory Council on Historic Preservation
12136 West Bayaud Avenue
Suite 330
Lakewood, CO 80228
Telephone: (303) 969-5110

State Historic Preservation Officer
State Historical Society
North Dakota Heritage Center
612 East Boulevard Avenue
Bismarck, ND 58505-0830
Telephone: (701) 328-2666

Tribal Historic Preservation Officer
Tribal Historic Preservation Office
Rosebud Sioux Tribe of Indians
PO Box 658
Rosebud, SD 57570
Telephone: (605) 747-4225

Tribal Historic Preservation Officer
Tribal Historic Preservation Office
Sisseton-Wahpeton Oyate
Old Agency Box 509
Agency Village, SD 57262-0509

XI HISTORICAL, CULTURAL AND ARCHAEOLOGICAL SITES (Continued)

Tribal Chairman
Tribal Chairman's Office
Spirit Lake Tribe
PO Box 359
Fort Totten, ND 58335
Telephone: (701) 766-1226

Tribal Historic Preservation Officer
Tribal Historic Preservation Office
Standing Rock Sioux Tribe
Tribal Planning Office
PO Box D
Fort Yates, ND 58538
Telephone: (701) 845-2120

Tribal Historic Preservation Officer
Tribal Historic Preservation Office
The Blackfeet Nation
PO Box 2809/527
Browning, MT 59417
Telephone: (406) 338-7406

Tribal Chairman
Tribal Chairman's Office
Three Affiliated Tribes
404 Frontage Road
New Town, ND 58763
Telephone: (701) 627-4781

Tribal Historic Preservation Officer
Tribal Historic Preservation Office
Turtle Mountain Band of Chippewa Indians
PO Box 900
Belcourt, ND 58316
Telephone: (701) 477-2641

Tribal Historic Preservation Officer
Tribal Historic Preservation Office
White Earth Band of Minnesota Chippewa
PO Box 418
White Earth, MN 56591
Telephone: (218) 573-3007

XII BIOLOGICAL RESOURCES; CRITICAL HABITAT; ENDANGERED AND THREATENED SPECIES ACT

A Any action that may impact the continued existence of any plant or wildlife species or destroy or adversely modify the habitats of listed species existence listed by the Secretary of the Interior must comply with the consultation procedures required under Section 7 of the Endangered Species Act as specified in 50 CFR 402. Rural Development will not authorize, fund or assist any project that does not meet the requirements of this act. Lists for the above are available in all Rural Development offices. (See Appendix C).

B Agency jurisdiction and location of resource:

U.S. Fish & Wildlife Service
3425 Miriam Avenue
Bismarck, ND 58501
Telephone: (701) 250-4402

U.S. Fish & Wildlife Service
Mountain-Prairie Region
134 Union Boulevard
Lakewood, CO 80228-1807
Telephone: (303) 236-7920

Mailing Address:

U.S. Fish & Wildlife Service
Mountain-Prairie Region
Denver Federal Center
PO Box 25486
Denver, CO 80225-0286
Telephone: (303) 236-7920

North Dakota Game and Fish Department
100 North Bismarck Expressway Avenue
Bismarck, ND 58501-5095
Telephone: (701) 328-6300

XIII WATER QUALITY

A Level of Protection

Project withdrawals and/or effluent discharges, including runoff, will be examined for conformance to the Water Pollution Control Act and the Safe Drinking Water Act.

B Agency jurisdiction and location of resource:

North Dakota State Health Department
1200 Missouri Avenue
PO Box 5520
Bismarck, ND 58505-5520
Telephone: (701) 328-5210

XIV SOLE SOURCE AQUIFER RECHARGE AREA

A North Dakota has no sole source aquifers.

XV COASTAL RESOURCES; COASTAL BARRIER RESOURCES SYSTEM; COASTAL ZONE MANAGEMENT AREA

A North Dakota has no coastal resources, coastal barrier resources system and no coastal zone management areas.

XVI ENVIRONMENTAL JUSTICE

A Executive Order (EO) 12989, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, addresses environmental justice concerns. Rural Development shall analyze environmental effects, including human health, economic and social effects, of Federal actions, including effects on minority communities and low-income communities. The Council on Environmental Quality (CEQ) has oversight of the Federal Government's compliance with EO 12989 and National Environmental Policy Act (NEPA).

B Any minority populations and low-income populations located within the area of potential effects should be identified and a determination made as to whether any may be disproportionately affected by the project.

XVII AIR QUALITY

A Level of Protection

1 Project emissions, including those created by potential secondary beneficiaries, shall be examined for conformance to the Clean Air Act and the Environmental Protection Agency's National Primary and Secondary Ambient Air Quality Standards.

2 There are no non-attainment areas in North Dakota.

B Agency jurisdiction and location of resource:

North Dakota State Health Department
Division of Environmental Engineering
1200 Missouri Avenue
PO Box 5520
Bismarck, ND 58506-5520
Telephone: (701) 328-5188

XVIII NOISE

A Level of Protection

1 Potential noise created by a project and the ambient noise impacts on the human environment must be considered in accordance with Section 102 (2) (c) of the National Environmental Policy Act. Day-night average sounds have a not-to-exceed decibel level.

2 A noise assessment will follow Housing and Urban Development (HUD) Noise Assessment guidelines.

B Agency jurisdiction and location of resource:

USDA, Rural Development
Environmental Coordinator
Federal Building, 220 E Rosser Avenue
PO Box 1737
Bismarck, ND 58502-1737
Telephone: (701) 530-2065

XIX HAZARDOUS WASTE

A Level of Protection

1 Resource Conservation and Recovery Act of 1976 (RCRA) was designed to create guidelines for prudent hazardous waste management and disposal. It provides the government with a tracking system for the regulations of hazardous waste from generation to disposal.

2 Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (SUPERFUND) gave the Government authority to respond to emergencies involving uncontrolled releases of hazardous substances and to develop solutions for the most serious hazardous waste problems. Any release or threatened release of a reportable quantity of a hazardous substance must be reported to Environmental Protection Agency (EPA). The "hot line" phone number is 800-424-8802.

3 Superfund Amendments and Reauthorization Act of 1986 (SARA) required the Environmental Protection Agency to publish a list of extremely hazardous substances. It also increased the enforcement authority of EPA and strengthened the emergency program to protect the environment from any immediate threats posed by a hazardous site.

The Act also established the requirements for the state and local programs to provide the public and local governments with information concerning potential chemical hazards present in their communities. The Governor has established the State Emergency Response Commission to comply with this requirement.

XIX HAZARDOUS WASTE (continued)

B Agency jurisdiction and location of resource:

Environmental Protection Agency, Region 8
999 18th Street, Suite 500
Denver, CO 80202-2466
Telephone: (303) 312-6312
Toll Free Number: 1-800-227-8917

North Dakota State Department of Health
Division of Waste Management
1200 Missouri Avenue
PO Box 5520
Bismarck, ND 58506-5520
Telephone: (701) 328-5166

State Coordinating Officer
Division of Emergency Management
PO Box 5511
Bismarck, ND 58506-5511
Telephone: (701) 328-8100

XX RADON GAS

A Level of Protection

Uranium Mill Tailing Radiation Control Act of 1978, Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA): Radon is a naturally occurring invisible, odorless radioactive gas produced by the decay of uranium and radium in the soil. Radon gas breaks down into solid radioactive particles called radon "progeny" or "daughters." Exposure to high levels of progeny can damage sensitive bronchial tissue in the lungs, increasing the potential of developing lung cancer.

B Agency jurisdiction and location of resource:

Environmental Protection Agency
999 18th Street, Suite 500
Denver, CO 80202-2466
Telephone: (303) 312-6312
Toll Free Number: 1-800-227-8917

North Dakota State Department of Health
Division of Environmental Engineering
1200 Missouri Avenue
PO Box 5520
Bismarck, ND 58506-5520
Telephone: (701) 328-5188

XXI UNDERGROUND TANKS

A Level of Protection

The Resource Conservation and Recovery Act (RCRA), as amended, requires that, unless exempted, owners of underground tanks that store regulated substances must notify the designated State Agency of the existence of the tanks.

B Agency jurisdiction and location of resource:

North Dakota State Department of Health
Division of Waste Management
1200 Missouri Avenue
PO Box 5520
Bismarck, ND 58506-5520
Telephone: (701) 328-5166

XXII CUMULATIVE IMPACT CONSIDERATIONS

A The assessment of Cumulative Impacts in NEPA documents is required by Council on Environmental Quality regulations (CEQ 1987).

B Environmental reviews must pay special attention to projects that could create cumulative impacts. A single project may have little direct impact but may produce many indirect impacts. Rural Development programs that may have cumulative effects include: Rural Development loans and grants for funding of domestic water and wastewater projects. These projects consist of new systems, updating present systems and extending present distribution systems.

C In each project funded, a study is made to determine growth potential that may have a detrimental effect by contributing to urban sprawl and other environmental effects such as the use of prime farmland or encroachment on wetlands. Rural Development's opinion is that water and wastewater systems generally improve the use of the land and contribute to more favorable environmental conditions.

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APPENDICES

| | |
|------------|---|
| APPENDIX A | List of Wild and Scenic Rivers within the State of North Dakota |
| APPENDIX B | List of Properties Recorded as Either On or Eligible for Inclusion to the Federal Register of Historic Places |
| APPENDIX C | List of Known Endangered Species Which Inhabit the State of North Dakota |
| APPENDIX D | List of Tribal Historic Preservation Offices (not all inclusive) |

Copies of the Appendices are not attached but are available upon request from:

USDA Rural Development
PO Box 1737
Bismarck, ND 58502-1737
Telephone: (701) 530-2065 or 1-800-582-7584, Ext. 5